

REMARKS

At the issuance of the Office Action, claims 1-8 and 26-30 are pending in the application with the Office presenting rejections on various grounds for each of these claims. The applicant respectfully submit that the above-presented claims, along with the following arguments, address each and every issue raised by the Office or render such issues as moot. Further, the applicant submits that the claims as presented herein are allowable.

Claim Rejections – 35 USC § 101

The Office has rejected claims 26 – 29 under 35 U.S.C 101 for being directed to non-statutory subject matter, particularly, since the modules articulated in claim 26 can be interpreted as software modules and since software *per se* is directed as non-statutory subject matter.

Applicant amended claim 26 by adding “executing within the server” to each of the elements denoted by Examiner, so as to define the required structural and functional interrelationships between the software and the sever, being a computer hardware. Applicant respectfully submits that claims 26 – 29 are therefore allowable.

Claim Rejections – 35 USC § 103

The Office has rejected claims 1 and 4 under 35 U.S.C 103(a) as being unpatentable over US patent application 20010053987 (Kleinschmidt) in view of US patent 5,964,700 (Tallman).

Kleinschmidt describes [Abstract]:

information system for patient groups, particularly for members of a company, has a server, which contains the personal data and medical data of a patient and which is connected to a data input device and a data output device. The server has a variable data input device enabling an inquiry about different location-variable data request stations and different data transmission systems and has an intelligent data output device producing a data output that is adapted to the type of the data request station, or corresponding to a user request.

It is therefore clear that the data managed and provided by Kleinschmidt system is limited to personal data, as stated clearly in para 14:

The server 7 is connected to a database 10, in which the name, address, the communication addresses of the patient and the insurance, the primary physician and all specialists, who have treated the patient earlier, are stored for each patient, as well as medical data such as the blood type, vaccinations, overcome illnesses, normal blood pressure, normal pulse, last EKG, incompatibilities, allergies, acute diseases, prescribed medication and its ingredients, etc.

Thus this, and only this “data are provided with a specific output format, namely a foreign language translation, for example, as a WEB page, WAP page, email, text to speech conversion, etc.” [para 13].

Applicant respectfully submits that Kleinschmidt teaches the translation of the patient’s personal data only, which is not claimed by the present invention. Furthermore, it is evident that the translation of the personal data is provided to the caretaker, not to the traveling patient.

For Kleinschmidt, the term “format” is limited to the communication standard of the output device namely: “WEB page, WAP page, email, text to speech conversion, etc.” [para 13]. Applicant respectfully submits that Kleinschmidt’s “format” is not “customized to the foreign country”.

Tallman describes [Abstract]:

a medical network management system (NMS) (20), health plan beneficiaries access a team of health care professionals over the telephone to help them assess their health needs and select appropriate care.

Practically, Tallman describes a software tool operating on a work-station to: enable a trained nurse to sort patients into different risk categories, safely and effectively without requiring a medical diagnosis. Patients can then be guided to an appropriate level and type of care for their problem(s) based on their level of risk and set of potential needs. [col. 4 lines 6-13]

Therefore the user interface detailed by Tallman is used by the trained nurse performing a primary triage. It is not intended for the user traveling abroad. Hence, the language selection is also triggered by the trained nurse and not by the user traveling abroad.

The present application claims a client system operated by a user traveling abroad, displaying one or more selection buttons associated with at least one type of medical assistance, receiving a selection, sending a request to a server; and receiving from the server medical assistance associated with the selected button, the medical assistance delivered in a language associated with the foreign country and/or a format customized to the foreign country.

Applicant notes that para 23 of the present application states that:
the terms: "subscriber", "subject", "user", "traveler" and "patient" are used interchangeably herein.

Thus, to further clarify the differences from the prior art, Applicant added the term "patient" to claim 1, so that claim 1 now reads:

A method for delivering medical assistance to a patient traveler while visiting in a foreign country, the traveler utilizing a client system, the method comprising the steps of:...

Similar amendments are made to claims 26 and 30.

Applicant respectfully submits that the information delivered by Kleinschmidt does not consist of medical assistance to a patient, as it includes only medical information about the patient, useful for medical personnel. Tallman's system too is used by the trained nurse for triage purposes and therefore is not intended as is to provide medical assistance to the patient.

Furthermore, Applicant respectfully submits that neither Tallman nor Kleinschmidt teach medical assistance "customized to the foreign country". Kleinschmidt does not teach such because there is no need to customize personal information to the foreign country. Tallman does not teach such because there is no foreign country. Hence, Applicant respectfully submits that no combination of Kleinschmidt and Tallman can be regarded as prior art to the requested claims.

Even further, Applicant respectfully submits that Tallman does not teach selection buttons used by the user to select language or to direct the server to provide medical assistance "customized to the foreign country".

Therefore, Applicant respectfully submits that neither Kleinschmidt nor Tallman nor their combination teach a client system operated by a user traveling

abroad operative to receive from a server medical assistance associated with a button selected by the patient, the medical assistance delivered in a language associated with the foreign country and/or a format customized to the foreign country.

Applicant therefore respectfully submits that claim 1 is allowable as well as its dependent claims 2-8.

The Office has rejected claims 2, 3, 26, 27 and 30 under 35 U.S.C 103(a) as being unpatentable over US patent application 20010053987 (Kleinschmidt) in view of US patent 5,964,700 (Tallman) and further in view of US patent application 20040204837 (Singleton).

Singleton teaches a “system for identifying medical facilities along a travel route” [Abstract]. However, Singleton’s system and method do not deliver any medical assistance to the user. Thus, Singleton cannot possibly deliver medical assistance in a language associated with the foreign country and/or a format customized to the foreign country.

Examiner submits that “Singleton teaches a similar method and system with the limitation” of claim 2:

wherein the step of delivering the medical assistance comprises selecting medical assistance from a group consisting of:

information on the availability of medical services in the foreign country,
a translation of a prescription into the language associated with the foreign country,

a translation of medical information associated with the traveler into the language associated with the foreign country,

medical referral information in the language associated with the foreign country,

online medical consulting in a preferred language of the traveler, and
online drug consultation in a preferred language of the traveler.

Particularly, Examiner refers to Singleton’s para 6, 7, 54, and 57.

Applicant respectfully submits that:

Regarding “information on the availability of medical services in the foreign country”, Singleton teaches the locating of “medical facilities along a travel route” [Abstract] and within range [para 57], and not necessarily in a specific country.

Furthermore, Singleton provides the information to an intermediating person such as an aircraft crew member, not the patient. Hence, Applicant respectfully submits that the information is not in a language associated with the foreign country and/or a format customized to the foreign country. Therefore, such information is not available in Singleton's database.

Regarding "a translation of medical information associated with the traveler into the language associated with the foreign country", Applicant respectfully submits that Singleton does not teach translation.

Regarding "medical referral information in the language associated with the foreign country", Applicant respectfully submits that Singleton does not teach referral information, and particularly not "referral information in the language associated with the foreign country". Thus, such information is not available in Singleton's database.

Regarding, "online medical consulting in a preferred language of the traveler", Applicant respectfully submits that Singleton does not teach providing the information to the traveling patient and therefore Singleton's database cannot deliver information "in a preferred language of the traveler". Furthermore, Singleton teaches "language" solely as a search parameter [para 5, 13, 25, 32, 47, 55, 57].

Regarding "online drug consultation in a preferred language of the traveler", Applicant respectfully submits that Singleton does not teach providing drug or related information or consultation. Furthermore, Singleton does not teach providing the information to the traveling patient. Even further, Singleton does not teach translation and therefore cannot teach providing "drug consultation in a preferred language of the traveler" Hence, Singleton's database does not maintain any such information.

Applicant therefore respectfully submits that the combination of and Kleinschmidt, Tallman and Singleton cannot teach the combination of claims 1 and 2. Particularly, none of these cited prior art teach such particular information provided in a language associated with the foreign country and/or a format customized to the foreign country. Applicant therefore respectfully submits that claim 2 is allowable.

Regarding claim 3, Examiner submits that Singleton teaches "at least one type of medical assistance associated with a selection button includes the provision of an

over the counter (OTC) prescription available in the foreign country”. However, being airborne, Singleton does not teach any provisioning of medicine, medication, prescription or their likes. Furthermore, Singleton does not teach the provision of any such “in the foreign country”.

Obviously, none of Kleinschmidt, Tallman and Singleton or their combination teaches the combination of claims 1 and 3, namely, the provision of an over the counter (OTC) prescription available in the foreign country, associated with a selection button, and in a language associated with the foreign country and/or a format customized to the foreign country. Applicant therefore respectfully submits that claim 3 is allowable.

Regarding claims 26 and 30, the present application claims a server, the server including: communication modules operative to provide selection buttons and receive user selection by means of the selection buttons; a database access module; and a web-page generating module; where “the selection received ...determines .. the medical assistance ... delivered in a form selected from .. a language associated with the foreign country and a format customized to the foreign country.”

Examiner submits that Kleinschmidt, in para 10 and 13, teaches “a web-page generating module for delivering the medical assistance associated with the selected button”, and that Tallman, col. 26 line 1 to col. 27 line 5 (as well as Figs. 6, 8, 18, 19, and 26) teaches the rest. As explained above, Kleinschmidt teaches translation of the patient’s medical data, not the translation of medical assistance, while Tallman teaches a triage tool for use by a nurse or a similar medically trained person, not by a user. Therefore, the combination of Kleinschmidt and Tallman would provide a web page translation of a triage tool to be used by a nurse, which is not what is claimed by the present application.

The present application teaches a patient that is known to the system including his medical history and current medical treatment, therefore triage is not the purpose. The required medical assistance is peculiar to the patient and “delivered in a form selected from the group consisting of a language associated with the foreign country and a format customized to the foreign country”. This feature is lacking from both Kleinschmidt and Tallman.

Furthermore, Tallman does not teach a clinics database, a prescription database, a sickness database and a referral database that are country specific. Therefore, Kleinschmidt's web-page cannot translate what is lacking from Tallman.

Para 39 of the present application teaches: "MWS 130 may comprise ... databases with information on the medical services and clinics in a plurality of locations in various parts of the world." Para 48 teaches "The medical services and clinics database 220 can include information regarding various medical services and clinics that are available and/or located in different locations around the world." Para 50 teaches "prescription database 240 may have a database of drugs that are used all over the world." Para 51 teaches "The Sickness (referral) database 250 comprises a plurality of descriptions of common illnesses and symptoms...provided in two or more languages and can help the traveler to interact and communicate with the foreign medical staff." Because such information is not available in either Kleinschmidt or Tallman the information cannot be provided in "a language associated with the foreign country" or "a format customized to the foreign country" as claim 26 requires.

Additionally, Examiner claims that in para 32 and 43 "Singleton teaches a system with the limitation of: a database access module operative to access at least one of: a medical services and clinics database, a prescription database, a sickness database and a referral database".

Applicant respectfully claims that, as detailed above with reference to claim 1, Kleinschmidt and Tallman do not provide prior art for the limitations of claims 26 or 30 with the database limitation excluded. Thus, adding Singleton database teaching is insufficient to reject claims 26 or 30.

Applicant further claims that nowhere does Singleton teach prescription or referral database. Singleton does teach a "Medical facility database" as follows [para 32]:

"The information regarding each of the medical facilities may include, but is not limited to, one or more of the following: (1) name and location, (2) contact information, such as phone number, fax number and contact personnel, (3) its relative location to suitable stopping points and/or transportation infrastructure (e.g., airports, highways, bus stations, train stations and ports), (4) directions to the facility, (5) types of medical services offered, (6) the identity of staff members and the associated specialties/background of each, (7) an overall quality rating,

(8) a quality rating for each medical specialty offered, (9) payment options available including accepted insurance providers, and (10) languages spoken by employees or staff members. Medical facility database 330 only need include the name and location of each medical facility."

Even further Applicant claims that using Singleton's database teaching requires interpreting the navigation instructions to the flight crew as medical assistance to the patient, and that Kleinschmidt teaches delivering such information "in a form selected from the group consisting of a language associated with the foreign country and a format customized to the foreign country".

Applicant respectfully submits that claims 26 and 30 are therefore allowable as well as claims 27 – 29 depending from claim 26.

Examiner has also rejected claims 5-7 under 35 U.S.C. 103(a) as being unpatentable over Kleinschmidt in view of Tallman and further in view of US Patent Application 20050075909 (Flagstad).

Referring to claim 5, Examiner states that Flagstad, in para 48-49 and 59, teaches "a life saving article, the life saving article identifying emergency medical information that is related to the traveler and a URL for the server, and the step of sending a request to a server further comprises sending the request to the URL identified on the life saving article."

Flagstad, in paragraphs 0048-0049, teaches that "the patient's medical file is stored in both the storage medium 44 of the Internet server 40 and the CD 50". Examiner apparently concludes that Flagstad's patient's medical file is a life saving article and that Flagstad's Internet server is practically a URL. However, this means that the life saving article is stored in the Internet server, which is neither the purpose of the present invention, nor is it the language of the claim.

The present invention teaches a life saving article that contains a URL "to gain access to the traveler's personal medical file" and that "the step of sending a request to a server further comprises sending the request to the URL identified on the life saving article".

Flagstad's storage medium 44 of the Internet server 40 is merely a backup of the CD 50 and vice versa, and therefore none contains information the other does not.

Hence CD 50 does not include a URL for accessing Internet server 40 for more information. Furthermore, none of the prior art teaches “sending a request to a server” comprising a URL “to gain access to the traveler’s personal medical file”.

Therefore the Applicant respectfully submits that claim 5, as well as its dependent claims 6 and 7, are allowable.

Referring to claim 6, Flagstad does not teach “a necklace with a notice plate, a plastic card, a key-holder with a medical plate, and a sticker”. Flagstad teaches only storage devices that are applicable to storing medical data files, while none of the elements listed in the limitation of claim 6 is necessarily a storage device.

Applicant therefore respectfully submits that claim 6 is allowable.

Examiner has also rejected claim 28 under 35 U.S.C. 103(a) as being unpatentable over Kleinschmidt in view of Tallman and further in view of Singleton and Flagstad.

Claim 28 depends from claim 26 with the added limitation of claim 6. Applicant respectfully submits that claim 28 is allowable for the reasons detailed above with reference to claims 26 and 6.

Examiner has also rejected claim 8 under 35 U.S.C. 103(a) as being unpatentable over Kleinschmidt in view of Tallman and further in view of US Patent 4803625 (Fu).

Fu teaches “A personal health monitor includes sensors for measuring patient weight, temperature, blood pressure, and ECG waveform. The monitor is coupled to a central unit via modems and includes a computer which is programmed to prompt a patient to take prescribed medication at prescribed times, to use the sensors to measure prescribed health parameters, and to supply answers to selected questions.” [Abstract]. Examiner states that Fu teaches, in col. 5 lines 6-26, “a medical measurement device that can be attached to the traveler and is operable to take certain medical measurements of the traveler, and the method further comprises the step of taking the certain medical measurements and transferring the certain medical measurements to the server.”

In col. 5 lines 6-38 Fu teaches a home unit operative “to log data indicative of various health parameters of the patient on a schedule prescribed by the attending physician

... and automatically communicates logged information with the central unit based on pre-programmed reporting times plus special reports made in response to triggering events ... The central unit generates reports of logged patient parameters for analysis and response by trained medical personnel”

However, the limitation of “take certain medical measurements of the traveler” and “transferring the certain medical measurements to the server” should be read in the context of claim 1, that is: “receiving a selection of one of the selection buttons; sending a request to a server; and the server delivering the medical assistance”. Evidently neither of Kleinschmidt, Tallman and Fu discusses a server delivering medical assistance. Singleton too does not discuss a server delivering medical assistance.

Even if navigation instructions (Singleton) are considered medical assistance, their combination requires that Kleinschmidt detects a user’s selection of Tallman selection button (originally to be used by a trained nurse) initiating Fu’s log of health parameters being sent to Singleton’s server that responds with medical navigation directions (not medical assistance) responsive to the selected button and presented by Kleinschmidt in the selected language and customized based on the selected country. Not just that this complicated sequence is not taught by any combination of the prior art, it is evidently not obvious even if all its components would have been present in the prior art.

The Applicant therefore respectfully submits that claim 8 is allowable.

Examiner has also rejected claim 29 under 35 U.S.C. 103(a) as being unpatentable over Kleinschmidt in view of Tallman and further in view of Singleton and Fu.

Claim 29 depends from claim 26 with the additional limitation of claim 8. Applicant respectfully submits the claim 29 is allowable for the reasons detailed above with reference to claims 26 and 8.

Conclusion

In view of the above-presented arguments, the applicants respectfully submit that Claims 1-8 and 26-30 are not anticipated by, or unpatentable over, the cited art and are, therefore, allowable.

All of the issues raised by the Examiner have been dealt with. In view of the foregoing, it is submitted that all the claims now pending in the application are allowable over the cited reference. An early Notice of Allowance is therefore respectfully requested.

Respectfully submitted,

/Gregory Scott Smith/

By: _____

Gregory Scott Smith
Reg. No. 40,819
Attorney for Applicant
gsmith@srtslaw.com

Smith Risley Tempel Santos LLC
Customer Number 35856
Two Ravinia Drive, Suite 700
Atlanta, Georgia 30346
(770) 709-0080

SMITH | RISLEY
TEMPEL | SANTOS
LLC
www.srtslaw.com